

**FILED**

**JAN 13 2006**

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

OMAR RODRIGUEZ ORTIZ; YOLANDA  
REYES CARREON,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-74518

Agency Nos. A95-194-009  
A95-194-010

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted January 9, 2006\*\*

Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Omar Rodriguez Ortiz and Yolanda Reyes Carreon, natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals’ (“BIA”) decision affirming an immigration judge’s order denying petitioners’ motion to reopen removal proceedings after they were ordered removed in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Singh v. INS*, 213 F.3d 1050, 1052 (9th Cir. 2000), and we deny the petition for review.

The BIA did not abuse its discretion when it denied petitioners’ motion to reopen because their excuse that they failed to appear at the hearing due to their calendaring mistake does not rise to the level of “exceptional circumstances.” *See* 8 U.S.C. § 1229a(b)(5)(C)(i); *Valencia-Fragoso v. INS*, 321 F.3d 1204, 1205 (9th Cir. 2003) (per curiam) (holding that applicant who was over four hours late, based on a misunderstanding of the time of the hearing, did not establish “exceptional circumstances”).

Petitioners’ contention that the BIA erred in affirming without opinion lacks merit because the BIA issued an opinion.

**PETITION FOR REVIEW DENIED.**